

Remarks/Arguments

Review and reconsideration of the Final Office Action of September 25, 2003 is respectfully requested in view of the following remarks.

Claims 1-3, 5-7, 9-11 and 13-24 are rejected.

Claims 4 and 12 are objected to.

Claims 1-7 and 9-24 are currently pending.

No claim has been allowed.

§ 102(b) Rejection- Yoshida et al.

The Examiner rejects Claims 1, 5-7, 9 and 13-24 under 35 U.S.C. 102(b) as anticipated by Yoshida et al., U.S. 4,487,613 (Yoshida).

Regarding claims 1 and 18-19, it is the Examiner's position that Yoshida anticipates the rejected claims because Yoshida discloses a method for the odorization of hydrocarbon gases comprising the combination of 2-methoxy-3-isobutyl pyrazine and methyl acrylate as a warning agent for hydrocarbon fuels. Applicants respectfully traverse the rejection.

Applicants respectfully submit that the compound disclosed in Yoshida, 2-methoxy-3-isobutyl pyrazine, falls outside of the scope of the claims.

First, the molecular weight of 2-methoxy-3-isobutyl pyrazine is 166 (please see Attachment A submitted with Amendment A of August 4, 2003.) Independent Claims 1, 9, 18 and 21 recite compounds having a molecular weight of from 80-160. Thus, the molecular weight of the compound taught by Yoshida falls outside of the scope of the claims.

Second, the boiling point of 2-methoxy-3-isobutyl pyrazine is 215°C (please see Attachment A). Independent Claims 1, 9, 18 and 21 recite compounds having a boiling point of from 90-210°C.

Thus, the boiling point of the compound taught by Yoshida falls outside of the scope of the claims.

Third, Applicants submit that Yoshida does not teach the limitations of Claims 5, 13, 18, 19, 21, 22 and 24 because 2-methoxy-3-isobutyl pyrazine is not a compound comprising a component of formula (I) wherein R^1 to R^4 represents hydrogen or a C_1 - C_4 -alkyl. Thus, Yoshida's 2-methoxy-3-isobutyl pyrazine falls outside of the scope of the claims.

Applicants believe that Yoshida does not teach or suggest all of the elements of Claims 1 and 18-19. Applicants respectfully request that the rejections based on this prior art reference be removed.

The Examiner rejects Claims 9, 21-22 and 24 as anticipated by Yoshida. It is the position of the Examiner that Yoshida anticipates the rejected claims because Yoshida discloses a composition for odorization of hydrocarbon gases comprising a combination of 2-methoxy-3-isobutyl pyrazine and methyl acrylate. Applicants respectfully traverse the rejection for the reasons stated above.

Applicants believe that Yoshida does not teach or suggest all of the elements of Claims 9, 21-22 and 24. Applicants respectfully request that the rejections based on this prior art reference be removed.

The Examiner rejects Claims 5 and 13 as anticipated by Yoshida. It is the position of the Examiner that Yoshida anticipates the rejected claims because Yoshida discloses the addition of 2-methyl-3-isobutyl pyrazine. Applicants respectfully traverse the rejection.

Applicants respectfully submit that the mention of 2-methyl-3-isobutyl pyrazine by Yoshida on column 6, line 57 is a typographical error. The word "methyl" is inexplicably substituted for the correct word, "methoxy". The use of the word "methyl" is a clear error because the entire patent is directed to the odor boosting qualities of 2-methoxy-3-isobutyl pyrazine.

For example, the paragraph at the bottom of column 6 discusses the results of the experiments listed in the tables on columns 5 through 6. The "Formulas" section of the tables does not mention 2-methyl-3-isobutyl pyrazine. Instead, 2-methoxy-3-isobutyl pyrazine is listed as an odor booster when used in combination with 4-methyl-4-mercapto-2-pentanone. Further, the benefits of using 2-methoxy-3-isobutyl pyrazine are described in the accompanying descriptive sentences in column 6. Twice in the paragraph, the phrase "4-methyl-4-mercapto-2-pentanone and/or 2-methoxy-3-isobutyl pyrazine" is mentioned to describe the results of the tests. Mysteriously, the third time that the phrase is used, the word "methyl" is substituted for "methoxy."

In fact, 2-methoxy-3-isobutyl pyrazine is mentioned 34 times in Yoshida, and 2-methyl-3-isobutyl pyrazine is mentioned just 2 times (other instance is at column 4, line 37). The mere mention of 2-methoxy-3-isobutyl pyrazine does not teach the present invention because there is no enablement of 2-methoxy-3-isobutyl pyrazine in Yoshida. Applicants respectfully submit that the use of the word 2-methyl-3-isobutyl pyrazine in Yoshida is an error, and Applicants respectfully request that the erroneous word not be cited as prior art against the present invention.

Applicants believe that Yoshida does not teach or suggest all of the elements of Claims 5 and 13. Applicants respectfully

request that the rejections based on this prior art reference be removed.

Regarding the Examiner's rejection of Claims 6-7 and 14-17, 20 and 23, Applicants respectfully submit that these claims are novel in view of their dependency with novel Claims 1, 9, 19 and 22, respectively. Thus, Applicants respectfully request that the rejections of these claims be removed.

Applicants believe that Yoshida does not teach or suggest all of the elements of the claims of the present invention. Applicants respectfully request that all of the rejections based on this prior art reference be removed.

103(a) Rejection- Yoshida et al.

The Examiner rejects Claims 2-3 and 10-11 under 35 U.S.C. 103(a) as obvious over Yoshida. Applicants respectfully traverse the rejection.

Applicants respectfully submit that Claims 2-3 and 10-11 are novel in view of their dependency with novel Claims 1 and 9, respectively.

A prima facie case of obviousness has not been made. As shown above, Yoshida does not disclose all of the elements of the claims; thus, Yoshida cannot render the claims obvious. There is no motivation to modify Yoshida to arrive at the present invention.

Applicants respectfully request that the rejections based on this prior art reference be removed.

Summary of Examiner Interview


Examiner Johnson and Carrie Bootcheck, representative for the Applicants, conducted a telephonic Interview on Tuesday,

November 4th. All of the pending claims were discussed. Yoshida was the only specific prior art discussed. No proposed amendments were discussed. During the Interview, the arguments discussed were: the molecular weight, the boiling point, and the R¹-R⁴ limitations of the claims. Next, Applicants' representative compared these limitations to the compound of Yoshida. Applicants' representative and the Examiner also discussed the typographical error contained in Yoshida. Finally, they agreed that if the anticipation rejection of the independent claims was removed, then the obviousness rejection of the dependent claims would be moot. Applicants' representative agreed to submit her arguments in writing to the Examiner for consideration in an After Final Amendment.

Favorable consideration and early issuance of the Notice of Allowance is respectfully requested. Should any minor points remain prior to issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at the below listed telephone number.

Respectfully submitted,

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U.S. Application No.: 09/762,847
AMENDMENT B

ATTORNEY DOCKET: 3968.062

CERTIFICATE OF MAILING AND AUTHORIZATION TO CHARGE

I hereby certify that the foregoing AMENDMENT B for U.S. Application No. 09/762,847 filed March 12, 2001, was deposited in first class U.S. mail, postage prepaid, addressed: Mail Stop: AF; Commissioner for Patents; P.O. Box 1450; Alexandria, VA, 22313-1450, on **November 12, 2003**.

The Commissioner is hereby authorized to charge any additional fees, which may be required at any time during the prosecution of this application without specific authorization, or credit any overpayment, to Deposit Account No. 16-0877.

A handwritten signature in cursive script, reading "Carrie L. Bootcheck", written over a horizontal line.

Carrie L. Bootcheck